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10 Attorneys for Defendant,
11 Patrick Byrne

12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 ROBERT HUNTER BIDEN, an
15 individual,

16 Plaintiff,

17 vs.

18 PATRICK M. BYRNE, an individual,

19 Defendant.

Case No.: 2:23-cv-09430-SVW-PD
Judge: Honorable Stephen V. Wilson
Courtroom: "10A"

Complaint Filed: November 8, 2023

**DECLARATION OF MICHAEL C.
MURPHY, ESQ. IN SUPPORT OF
DEFENDANT'S REPLY IN
SUPPORT OF HIS MOTION FOR
SUMMARY JUDGMENT OR, IN
THE ALTERNATIVE, SUMMARY
ADJUDICATION**

*[Filed concurrently with Defendant's
Reply; Defendant's Evidentiary
Objections to Plaintiff's Declaration
and Exhibits; Defendant's Response to
Plaintiff's Additional Controverted
Facts; Defendant's Response to
Plaintiff's Disputed Facts]*

Date: November 25, 2024
Time: 1:30 p.m.
Courtroom: "10A"

1 I, Michael C. Murphy, Esq., declares as follows:

2 1. I am an attorney duly authorized and licensed to practice law before
3 this Court and all the state courts located throughout the State of California. I am
4 an attorney with the Law Offices of Michael C. Murphy, attorneys of record for
5 Defendant Patrick Byrne. This Declaration is executed in support of Defendant's
6 Reply in Support of his Motion for Summary Judgment or, in the Alternative,
7 Partial Summary Judgment. I have personal knowledge of the facts stated in this
8 Declaration and if called upon to testify, I would competently do so.

9 2. On August 17, 2024, I sent an e-mail to Plaintiff's counsel and
10 notified him that in the future we intended to bring a motion for summary
11 judgment and to give him ample notice so he could conduct whatever discovery he
12 deemed appropriate to oppose the motion. (A true and correct copy of said e-mail
13 is heretofore attached as Exhibit "A" incorporated herein, and made a part hereof).

14 3. On October 30, 2024, I sent an email to Plaintiff's counsel offering to
15 continue the hearing on the summary judgment motion, the pretrial conference and
16 all related pretrial filing dates, the deadline for Plaintiff to file his opposition to the
17 motion for summary judgment, the deadline for Defendant to file his reply brief,
18 and to set a time to meet and confer on the motions in limine. (A true and correct
19 copy of said e-mail is heretofore attached as Exhibit "B" incorporated herein, and
20 made a part hereof).

21 4. On October 30, 2024, Plaintiff responded by stating the following:
22 "We see no need at this point to continue any of the pretrial dates or any of the
23 deadlines associated with Defendant's Motion for Summary Judgment as we are
24 ready to proceed on all fronts. As such, we will not agree to enter into a stipulation
25 to continue any of the dates you propose." (A true and correct copy of said e-mail
26 is heretofore attached as Exhibit "C," and incorporated herein, and made a part
27 hereof).

28 I declare under penalty of perjury under the laws of the United States

1 of America that the foregoing is true and correct. This Declaration was executed
2 on November 12, 2024, at Westlake Village, CA.

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4 By: /s/ Michael C. Murphy, Esq.
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Exhibit “A”

Michael Murphy

From: Michael Murphy
Sent: Saturday, August 17, 2024 8:54 AM
To: 'Zachary Hansen'; Michael Murphy, Jr.
Cc: 'Bryan Sullivan'; 'AbbeLowellPublicOutreach@winston.com'; 'Salvaty, Paul B.'; 'Ellis, Gregory A.'; Michael Murphy, Jr.; Carmen
Subject: RE: Robert Hunter Biden v. Patrick M. Byrne (Federal Case No.: 2:23-cv-09430-SVW-PD)
-Motion for Summary Judgment/Adjudication

Hi Zachary:

This e-mail is to provide you with notice that pursuant to FRCP 56, we intend to bring a motion for summary judgment and/or for summary adjudication of issues and within the next 60 days to ensure that the motion is timely and can be heard by the court before the pretrial conference and trial. I am giving you this notice to ensure that you have the opportunity to take whatever action you deem appropriate to get your discovery completed and so that you can address the issues set forth in our motion.

Have a great weekend.

Very truly yours,

Michael C. Murphy, Esq.

From: Michael Murphy
Sent: Saturday, August 17, 2024 8:45 AM
To: 'Zachary Hansen' <zhsansen@earlysullivan.com>; Michael Murphy, Jr. <michael.jr@murphlaw.net>
Cc: 'Bryan Sullivan' <bsullivan@earlysullivan.com>; 'AbbeLowellPublicOutreach@winston.com' <AbbeLowellPublicOutreach@winston.com>; 'Salvaty, Paul B.' <PSalvaty@winston.com>; 'Ellis, Gregory A.' <GAEllis@winston.com>; Michael Murphy, Jr. <michael.jr@murphlaw.net>; Carmen <Carmen@murphlaw.net>
Subject: RE: Robert Hunter Biden v. Patrick M. Byrne (Federal Case No.: 2:23-cv-09430-SVW-PD) -Ms. Biden as a Witness

Hi Zachary:

In your client's responses to our client's special interrogatory number 3, your client lists Mrs. Biden as a witness. She is not listed as a witness in your client's Rule 26f disclosures. If your client may call his wife as a witness during trial, he must list her in his Rule 26f disclosures and promptly produce her for a deposition. Otherwise, you must stipulate to a court order that your client will not be calling her to testify during the trial of this case.

Your client cannot claim the husband wife privilege to block us from deposing Ms. Biden and then waive that privilege right before trial and try to call her.

Let me know as soon as possible what you want to do. Failing that, I will request an IDC on this issue.

Very truly yours,

Michael C. Murphy, Esq.

Exhibit “B”

Michael Murphy

From: Michael Murphy
Sent: Wednesday, October 30, 2024 12:29 PM
To: Zachary Hansen
Cc: Michael Murphy, Jr.; Bryan Sullivan; 'abbelowellpublicoutreach@winston.com'; 'Ellis, Gregory A.'; Robie Atienza-Jones; 'Salvaty, Paul B.'
Subject: RE: Biden v. Byrne; 2:23-cv-9430-SVW-PDx

Hi Zachary:

As you may know, the magistrate judge issued an order today that our client's deposition is to be taken in a federal judicial district selected by him and with your client paying all of his round trip travel expenses including ground transportation, hotel, and a business class airline ticket. Based on the foregoing, I would like to propose that we enter a stipulation for a court order with the trial judge for the following:

1. Continue the hearing of our client's motion for summary judgment and/or for summary adjudication of issues and the pretrial conference to a new date and time to precede the trial date.
2. Set a new date for your client to file his opposition to our motion for summary judgment and for us to file a reply to your client's opposition.
3. Set a new date for pretrial filings which consist of the joint witness list, joint exhibit list and memorandum of contentions of law and fact.
4. Set a date and time for the filing and hearing of motions in limine after a meet and confer. We have at least four.

We can get back to you soon with a proposed federal judicial district from our client. You can then promptly propose a date, location in the selected district, and time to notice the deposition of our client which we would want to occur sooner rather than later. That date will then affect our stipulation dates listed above.

We have still not heard from you with your designation of your IME expert, his or her CV, and other information that must be contained in an appropriate expert witness designation that is due now. We also have not separately received from you any proposed dates and times to depose that expert and have their requested documents produced at a deposition. Otherwise, we will want to proceed with a motion in limine precluding your client from calling any medical professional to testify about your client's emotional distress.

Please let me know how you want to proceed and in response to this e-mail. I anticipate hearing from you as soon as possible.

Very truly yours,

Michael C. Murphy, Esq.

From: Zachary Hansen <zhansen@earlysullivan.com>
Sent: Tuesday, October 29, 2024 3:34 PM
To: Michael Murphy <michael@murphlaw.net>
Cc: Michael Murphy, Jr. <michael.jr@murphlaw.net>; Bryan Sullivan <bsullivan@earlysullivan.com>;

Exhibit “C”

Michael Murphy

From: Zachary Hansen <zhanzen@earlysullivan.com>
Sent: Wednesday, October 30, 2024 4:26 PM
To: Michael Murphy
Cc: Michael Murphy, Jr.; Bryan Sullivan; 'abbelowellpublicoutreach@winston.com'; 'Ellis, Gregory A.'; Robie Atienza-Jones; 'Salvaty, Paul B.'
Subject: RE: Biden v. Byrne; 2:23-cv-9430-SVW-PDx

Hi Michael,

We see no need at this point to continue any of the pretrial dates or any of the deadlines associated with Defendant's Motion for Summary Judgment as we are ready to proceed on all fronts. As such, we will not agree to enter into a stipulation to continue any of the dates you propose. It's interesting you are now wanting to continue such dates, when you previously refused to do so earlier this week upon my suggestion, which caused us to change our position and plan to proceed with the current deadlines. We will send you the Exhibit List and Witness List tomorrow so that you can enter Defendant's portions, send them back to me in a timely manner, and we can file the same on Monday by the deadline. As for the memorandum of contentions of facts and law, we are working on that but may not have a draft of our portion ready until Monday. This is why I wanted to have a meet and confer call this week with you to discuss what we side would include in that memorandum, but you claimed to be too busy on other matters to have such a call. Therefore, we will send you our portion of that memorandum when we have it ready. You could expediate that process by sending us Defendant's portions of that document this week.

As I told you yesterday, we are evaluating the IME report that we only received a day ago and will inform you of our decision regarding a rebuttal expert this week.

With respect to the Court's order, we expect compliance with that order which requires you to provide written notice of which district Defendant will appear in for his deposition within 5 days of the order. That means by Monday 11/4 we need that information from you in writing. We will then propose a date and time thereafter, as ordered by the Court. The Court's Order also says nothing about paying for ground transportation as you claim in your email and thus Plaintiff will not be paying for those expenses. We will adhere to the Order, which means Plaintiff will only pay for the airfare and hotel for Defendant.

Finally, I never received a response from you regarding our proposal to proceed with a mediation before a neutral from the Court's panel, as you initially suggested. Please let me know if you agree to do that and, if so, we can prepare an application for the Court to set a date for us.

Best Regards,

Zachary Hansen



ZACHARY HANSEN | ASSOCIATE ATTORNEY
Early Sullivan Wright Gizer & McRae LLP
323.301.4660 Main
323.301.4664 Direct
310.701.1860 Mobile
323.301.4676 Fax
6420 Wilshire Blvd., 17th Floor, Los Angeles, CA 90048
zhanzen@earlysullivan.com

This message and any attached documents may contain information from the law firm of